

**ASSEMBLY, No. 591**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman JOHN DIMAIO**

**District 23 (Hunterdon, Somerset and Warren)**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Assemblyman VINCENT MAZZEO**

**District 2 (Atlantic)**

**Co-Sponsored by:**

**Assemblyman Wirths**

**SYNOPSIS**

Allows commercial farmer to recover reasonable costs and attorney fees of defending against unreasonable complaints under “Right to Farm Act.”

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the filing of complaints about farming  
2 activities, and supplementing P.L.1983, c.31 (C.4:1C-1 et seq.).  
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:  
6

7 1. A respondent who prevails in an action brought pursuant to  
8 section 5 of P.L.1998, c.48 (C.4:1C-10.1) because the commercial  
9 agricultural operation, activity or structure is found to be entitled to  
10 the irrebuttable presumption established in section 7 of P.L.1983,  
11 c.31 (C.4:1C-10) shall be awarded reasonable costs and attorney  
12 fees to be paid by the complainant upon a determination that the  
13 complaint was brought in bad faith.

14 A respondent seeking an award under this section shall submit an  
15 application to the county board or committee detailing the costs and  
16 attorney fees incurred in the defense of the complaint. If the county  
17 board or committee determines that the complaint was brought in  
18 bad faith, the county board or committee shall determine if the costs  
19 and attorney fees, or a portion thereof, are reasonable, and shall  
20 issue an order requiring the complainant to pay the reasonable costs  
21 and attorney fees.  
22

23 2. This act shall take effect immediately.  
24  
25

#### 26 STATEMENT 27

28 This bill would strengthen the legal protections provided to  
29 farmers under the "Right to Farm Act." Specifically, the bill would  
30 allow farmers to recover reasonable costs and attorney fees incurred  
31 in the defense of bad faith complaints against commercial  
32 agricultural operations, activities or structures when a county  
33 agriculture development board or the State Agriculture  
34 Development Committee (SADC), as applicable:

35 1) finds the farmer is entitled to the irrebuttable presumption  
36 established under the "Right to Farm Act"; and

37 2) determines that the complaint was brought in bad faith and  
38 all or a portion of the costs and attorney fees are reasonable.

39 Under the "Right to Farm Act," the established irrebuttable  
40 presumption is that a commercial agricultural operation, activity or  
41 structure or specific operation or practice does not constitute a  
42 public or private nuisance, or does not otherwise invade or interfere  
43 with the use and enjoyment of any other land or property, if:

44 1) the commercial agricultural operation, activity or structure  
45 conforms to agricultural management practices recommended and  
46 adopted by the SADC, or the specific operation or practice of the  
47 commercial agricultural operation has been determined to constitute  
48 a generally accepted agricultural operation or practice, either by the

1 appropriate county agriculture development board or the SADC, as  
2 applicable; and

3 2) the commercial agricultural operation, activity or structure  
4 or specific operation or practice complies with all relevant federal  
5 and State statutes and regulations, and does not pose a direct threat  
6 to public health and safety.

7 Under the bill, a farmer seeking an award of reasonable costs and  
8 attorney fees would submit an application therefor to the county  
9 agriculture development board or the SADC as applicable, after  
10 being found entitled to the irrebuttable presumption. The county  
11 agriculture development board or the SADC would then determine  
12 if the complaint was made in bad faith and if the costs and fees, or a  
13 portion thereof, are reasonable. If so, the county agriculture  
14 development board or the SADC would issue an order for the  
15 person filing the complaint to pay the reasonable costs and fees to  
16 the farmer.